

Santa Teresa Citizen Action Group
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STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of)	
)	DOCKET NO.: 99-AFC-3
)	
Metcalf Energy Center)	SUMMARY OF COMMENTS
)	ON THE STATUS OF PROCEEDINGS
)	FOR CEC SITE LICENSING
_____)	

Reference [1] STCAG, 12/16/99, Motion To Rescind the Commission Acceptance of the Application for Certification

The Santa Teresa Citizen Action Group comments regarding the status of the review of the proposed project are provided below. We feel that the project is flawed by numerous severe unmitigated impacts in addition to a paucity of clear design information and should be withdrawn by the applicant or cancelled by commission action. Unmitigatable impacts include land use incompatibility, plume visual impacts, emission impacts (especially particulates), water resources, and hazardous materials. The continuance of effort on the part of all agencies and parties is costly and non-productive. Our comments are provided in the event that the preferred approach is not taken. We request 25 minutes to present our comments at the conference.

1.0 - The necessity of further discovery

Further discovery is required if the application is to proceed. As noted by staff, outstanding major issues should be resolved prior to issuance of the FSA, otherwise disputed issues must be litigated at the evidentiary hearings. There are many unresolved issues, so that it is impossible to foresee how the project could be approved as currently designed. The public and the parties to the proceedings should not be made to solve all failings of the applicant through the hearing process. A discussion of the some but not all of the unresolved issues are listed below.

1.1 - Cooling Tower Plumes

The San Jose Planning department representatives indicated, at PSA workshops, that no visible plumes would be allowed in the area where MEC is proposed. This would appear to be a severe unmitigatable impact that may require a radical new proposal for the cooling system design. Commissioner Laurie mentioned in his speech on June 9th at the Energy Summit that he expects all future plants to use dry cooling. It may be that MEC must move to dry cooling on this basis or a hybrid system. The transition of the cooling system design from wet to dry cooling is so fundamental to the system definition that it necessitates a new application, a full analysis by the air district, a report by CEC staff, and workshops held where the public and parties can discuss the ramifications.

1.2 - Water Resources

The PSA workshop revealed the sensitive nature of the Coyote Valley aquifer. It was stated that the use of recycled water for irrigation is not allowed at this time, and that any chemical spills would rapidly pass through the Coyote Narrows and into the Santa Teresa aquifer used for potable water. A question was raised by Mr. R. F. Williams as to amount of recycled water deposited on Tulare Hill from the cooling towers that will enter the aquifer system. Also CVRP has raised the issue of the poor quality protection from ammonia spill during delivery, storage, transfer, and leaks. The source of cooling system water during a possible 30 day outage was not fully answered in the PSA or associated workshops. These three important areas require a new submittal by the applicant, analysis and a report by staff, and a workshop held where the public, interveners and applicant can discover the impacts of any new proposals.

1.3 - Override Authority

Override by the CEC may become a relevant subject in this case and data has not been provided to illuminate the underlying issues. On June 12th San Jose Mayor Ron Gonzales and District 2 Councilmember Charlotte Powers, announced their opposition to the MEC proposal, based on City development plans, land use, and the potential environmental and health impacts to the local neighborhood residents. The city council traditionally follows the lead of the Council member in whose district a General Plan Amendment is proposed. We may reasonably anticipate a disapproval of the proposed zoning changes by the city council. At the Silicon Valley Energy Summit on June 9th, Commissioner Laurie stated in response to questions from Calpine, that use of the CEC's override authority would be justified primarily on need. The need for MEC at the time when it could be constructed and operational has not been thoroughly presented to the CEC staff nor the public. Except for some limited excerpts from optimistic studies submitted by the Applicant in data responses, there has not been a comprehensive analysis of need. STCAG's and CVRP's response to the PSA in addition to comments by the CAISO representative at the PSA workshops strongly conflict with the applicant's positions. Before the FSA is produced the applicant should submit a need analysis based on summer 2003 for review by staff, a staff report issued and a workshop held where the public, interveners and applicant can discuss the assessment.

2.0 -The status and anticipated timing of any further federal actions:

We have no comments on this item.

3.0 -The issuance of a Final PDOC by the BAAQMD

3.1 – Need for BACT analysis

STCAG, CARE and CVRP have all responded to the PDOC with comments that include a lack of BACT analysis that does not conform to EPA standards. The FDOC is already late and should not be released until a hearing at the BAAQMD on the adequacy of their BACT analysis. CARE and CVRP also noted serious miscalculations in the level of toxic releases from the turbines. Correction of these errors may also delay the release of the FDOC, and requires a revised PDOC as has occurred in other cases, rather than a FDOC as the next step in the BAAQMD process.

4.0 - The necessity of reissuing the PSA

4.1 – A revised PSA is required for participation by the public

Sufficient information exists in the current PSA to disqualify the project. However we are concerned that iterations and design changes will be allowed by the CEC as the FSA is prepared. These changes if they occur must be reviewed by the public and other parties to the proceedings prior to release of the FSA. There were numerous inadequacies in the air quality analysis and health risk assessments which were identified by CVRP, CARE, and other interveners as well as other agencies and interested parties. These deficiencies are of sufficient number and magnitude to require review by the parties prior to issuance of the FSA.

4.2 - Packaging of revisions.

The PSA is in general a document which serves the public well. It provides a single source of analysis by the staff, and is laid out in logical format. We are extremely dissatisfied with the alternative which has been demonstrated by the applicant, [1] i.e., we are confronted by a dazzling display of revisions and supplements some subset of which defines the proposed project. At this stage in the process the public can have absolutely no hope of reviewing the project since the project definition is completely nebulous. We request that a single defining document be produced by the applicant which defines the project for review.

4.3 - Packaging of staff assessments

In the event that a revised assessment is made by the staff. We request that a single full PSA be issued for review rather than separate sections.

5.0 - The timing of necessary actions by the City of San Jose;

5.1 – City General Plan Amendment Hearings

The city planning department needs to have sufficient data for review during hearings in August to consider the Amendment to the General Plan. The current PSA with identified serious unmitigated impacts provides sufficient information for a negative determination by the City.

6.0 - The scheduling of future prehearing (i.e. those occurring in advance of evidentiary hearings) events including the Prehearing Conference and issuance of the Final Staff Assessment

6.1 - Proposed schedule

Multiple major design changes by the applicant have slipped the schedule well beyond the twelve month mandated and event beyond the more typical 14 month timeline. Based on the necessary and reasonable review process we propose the following sequence and durations. These events cannot occur in parallel since each item is dependent on the previous results. The specific dates must be determined by controlling agencies. The total minimum remaining duration is 8-1/2 months.

30 days for BACT hearings by BAAQMD, new PDOC issued
30 days from submittal of new data by the applicant to the issuance of a second PSA.
30 days of workshops and PSA comments.
30 days to FSA
30 days to rebuttal testimony submission deadline
15 days evidentiary hearings
30 days to PMPD
30 day comment period
15 days to issue Errata
15 days Commission Considers PMPD and Errata.

7.0 Other procedurally relevant matters

We support Bob Williams' motion to reject the project based on unmitigable impacts.

We support CARE's motion to set schedule.

We support CVRP's motions to correct deficiencies in the PSA and motions to re-issue the PSA.

DATED: July 11, 2000

Respectfully submitted,

JEFFREY WADE, P.E.
Santa Teresa Citizen Action Group